

**THE McDANIEL LAW FIRM, P.C.**  
54 Main Street  
Hackensack, New Jersey 07601  
201-845-3232  
201-845-3777 (Facsimile)  
*Attorneys for Defendants Division Point  
Models, Inc., Jack Vansworth, K+C  
Johnson, Ltd., and Kenneth Johnson*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

MORNING SUN BOOKS, INC.,

Plaintiff,

v.

DIVISION POINT MODELS, INC.,  
JACK VANSWORTH, K+C JOHNSON,  
LTD., KENNETH JOHNSON, UNCLE  
DAVE'S BRASS MODEL TRAINS,  
JOHN DOES 1-10,

Defendants.

Civil Action No.: 2:11-cv-00608(WJM)(MF)

**ANSWER**

Defendants Division Point Models, Inc., Jack Vansworth, K+C Johnson, Ltd., and Kenneth Johnson, through their undersigned counsel, answer the Complaint Plaintiff Morning Sun Books, Inc. as follows.

**NATURE OF THE ACTION**

1. The allegations contained in Paragraph 1 of the Complaint purport only to summarize matters alleged elsewhere and therefore no answer is required. To the extent that an answer is required, Defendants deny the allegations.
2. Defendants deny the allegations contained in Paragraph 2 of the Complaint, except admit that the address stated for Morning Sun Books, Inc. is accurate.

3. Defendants deny the allegations contained in Paragraph 3 of the Complaint, except admit that the address stated for Division Point Models, Inc. is accurate.

4. Defendants deny the allegations contained in Paragraph 4 of the Complaint, except admit that the address stated for Jack Vansworth is accurate.

5. Defendants deny the allegations contained in Paragraph 5 of the Complaint, except admit that the address stated for K+C Johnson, Ltd. is accurate.

6. Defendants deny the allegations contained in Paragraph 6 of the Complaint.

7. Defendants are without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 7 of the Complaint.

8. Defendants are without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 8 of the Complaint.

9. Defendants deny the allegations contained in Paragraph 9 of the Complaint.

#### **JURISDICTION AND VENUE**

10. Defendants deny the allegations contained in Paragraph 10 of the Complaint.

11. Defendants deny the allegations contained in Paragraph 11 of the Complaint.

#### **THE BUSINESS OF PLAINTIFF MORNING SUN BOOKS**

12. Defendants are without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 12 of the Complaint.

13. Defendants admit on information and belief the allegations contained in Paragraph 13 of the Complaint.

14. Defendants are without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 14 of the Complaint.

15. Defendants are without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 15 of the Complaint.

16. Defendants are without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 16 of the Complaint.

17. Defendants are without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 17 of the Complaint.

18. Defendants are without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 18 of the Complaint.

19. Defendants are without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 19 of the Complaint.

20. Defendants are without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 20 of the Complaint.

21. Defendants deny the allegations contained in Paragraph 21 of the Complaint.

#### **DEFENDANTS' WRONGFUL ACTIVITIES**

22. Defendants admit the allegations contained in Paragraph 22 of the Complaint.

23. Defendants deny the allegations contained in Paragraph 23 of the Complaint.

24. Defendants deny the allegations contained in Paragraph 24 of the Complaint.

25. Defendants deny the allegations contained in Paragraph 25 of the Complaint.

26. Defendants deny the allegations contained in Paragraph 26 of the Complaint.

27. Defendants deny the allegations contained in Paragraph 27 of the Complaint.

28. Defendants deny the allegations contained in Paragraph 28 of the Complaint and

respectfully refer the Court to Plaintiff's Exhibit C, referenced therein, for a complete and accurate statement of its contents.

29. Defendants deny the allegations contained in Paragraph 29 of the Complaint and respectfully refer the Court to Plaintiff's Exhibit C, referenced therein, for a complete and accurate statement of its contents.

30. Defendants deny the allegations contained in Paragraph 30 of the Complaint and respectfully refer the Court to Plaintiff's Exhibit C, referenced therein, for a complete and accurate statement of its contents.

31. Defendants deny the allegations contained in Paragraph 31 of the Complaint and respectfully refer the Court to Plaintiff's Exhibit D, referenced therein, for a complete and accurate statement of its contents.

32. Defendants deny the allegations contained in Paragraph 32 of the Complaint.

33. Defendants deny the allegations contained in Paragraph 33 of the Complaint.

34. Defendants deny the allegations contained in Paragraph 34 of the Complaint.

35. Defendants deny the allegations contained in Paragraph 35 of the Complaint.

36. Defendants deny the allegations contained in Paragraph 36 of the Complaint.

37. Defendants deny the allegations contained in Paragraph 37 of the Complaint.

38. Defendants deny the allegations contained in Paragraph 38 of the Complaint.

39. Defendants deny the allegations contained in Paragraph 39 of the Complaint.

40. Defendants deny the allegations contained in Paragraph 40 of the Complaint.

41. Defendants deny the allegations contained in Paragraph 41 of the Complaint.

**FIRST CLAIM FOR RELIEF**  
**(Copyright Infringement, 17 U.S.C. 101, et seq.)**

42. Defendants repeat the responses set forth in Paragraphs 1 through 41 above as if fully set forth herein.

43. Defendants deny the allegations contained in Paragraph 43 of the Complaint.

44. Defendants deny the allegations contained in Paragraph 44 of the Complaint.

45. Defendants deny the allegations contained in Paragraph 45 of the Complaint.

46. Defendants deny the allegations contained in Paragraph 46 of the Complaint.

**WHEREFORE**, Defendants demand judgment in their favor, dismissing the First Count of the Complaint against them.

**SECOND CLAIM FOR RELIEF**  
**(False Designation of Origin, 15 U.S.C. 1125(a))**

47. Defendants restate each response set forth in Paragraphs 1 through 46 above as if fully set forth herein.

48. Defendants deny the allegations contained in Paragraph 48 of the Complaint.

49. Defendants deny the allegations contained in Paragraph 49 of the Complaint.

50. Defendants deny the allegations contained in Paragraph 50 of the Complaint.

51. Defendants deny the allegations contained in Paragraph 51 of the Complaint.

**WHEREFORE**, Defendants demand judgment in their favor, dismissing the Second Count of the Complaint against them.

**GENERAL DENIAL**

Defendants deny any and all allegations contained in the Verified Complaint to the extent not specifically denied or admitted herein.

**AFFIRMATIVE DEFENSES**

1. The claims are barred in whole or in part for failure to state a claim upon which relief may be granted.

2. The claims are barred in whole or in part by fraud and/or negligent misrepresentation.

3. The claims are barred in whole or in part by the doctrine of laches.

4. This Court is without personal jurisdiction over this Defendant.
5. The claims are barred in whole or in part by the Statute of Frauds.
6. The claims are barred in whole or in part by the applicable statute of limitations.
7. This Court lacks subject matter jurisdiction over the claims alleged.
8. The claims are barred in whole or in part by the doctrine of unclean hands.
9. Venue in this Court is improper.
10. Defendant reserves the right to assert such other and further affirmative defenses as discovery may reveal.

**WHEREFORE** Defendants respectfully request judgment on their behalf.

**JURY DEMAND**

Defendants Division Point Models, Inc., Jack Vansworth, K+C Johnson, Ltd., and Kenneth Johnson demand trial by jury as to all issues so triable.

DATED: March 25, 2011

**THE McDANIEL LAW FIRM, P.C.**

By:

  
\_\_\_\_\_  
Jay R. McDaniel, Esq.  
*Attorneys for Defendants Division Point  
Models, Inc., Jack Vansworth, K+C  
Johnson, Ltd. and Kenneth Johnson*